

***United States Court of Appeals
for the Second Circuit***



**APPELLANT'S
APPENDIX**

76 - 7145

UNITED STATES COURT OF APPEALS
FOR THE SECOND JUDICIAL CIRCUIT

DOCKET NUMBER 76 - 7145

BISWANATH HALDER,

PLAINTIFF - APPELLANT,

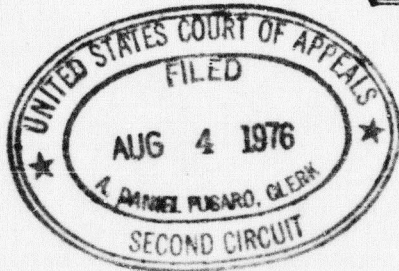
V

SPERRY RAND CORPORATION,

DEFENDANT - APPELLEE.

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

APPENDIX



BISWANATH HALDER

APPELLANT PRO SE

173-17 65 AVENUE

FRESH MEADOWS, NY 11365

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

BISWANTH HALDER,

Plaintiff,

-against-

SPERRY RAND CORPORATION

Defendant.

United States Courthouse
Brooklyn, New York

December 20, 1974
10:00 a.m.

Before :

HONORABLE JACOB MISHLER, CHIEF U.S.D.J.

I hereby certify that the foregoing is a
true and accurate transcript from my sten-
ographic notes in this proceeding.

Official Court Reporter
U.S. District Court for the
Eastern District of N.Y.

SHELDON SILVERMAN
OFFICIAL COURT REPORTER

Appearances:

BISWANTH HALDER,
Appearing pro se

POLETTI, FREIDIN, PRASHKER, FELDMAN &
GARTNER, ESQS.

Attorneys for Defendants

BY: ERIC ROSENFELD, ESQ.

1 THE COURT: Plaintiff appears pro se and this
2 is a motion by the plaintiff for a copy of a
3 deposition taken by the plaintiff -- by the defendant
4 of the plaintiff.

5 Mr. Halder, you tell me why you're entitled
6 to a free copy and who ought to supply.

7 MR. HALDER: Might I make a few points from
8 defendant's memorandum first of all? Do you have
9 a copy of it?

10 THE COURT: Go ahead, you tell me.

11 MR. HALDER: It says here, "He is currently
12 earning at least \$600 per month and has made no
13 showing why that \$184.50 cost of the transcript
14 from the Reporter would be prohibited."

15 THE COURT: You don't have to argue that.
16 I am not going to listen to every argument you say
17 against everything he says.

18 Are you presently employed?

19 MR. HALDER: I do not have a salaried employ-
20 ment in this country since July of 1970; however,
21 I'm working as a stock broker and drawing \$600
22 per month against my commissions but my earnings
23 at the employment is less than \$600. Therefore ,
24 I do have a debt balance with my employer.

25 THE COURT: Who do you work for?

1 MR. HALDER: H.B. Shearson, Hayden and Stone.

2 THE COURT: What's your position?

3 MR. HALDER: Stock broker.

4 THE COURT: What position did you apply for
5 at Sperry Rand?

6 MR. HALDER: Computer program analyst.

7 THE COURT: You say that you were discriminated
8 against because of your race or national origin?

9 MR. HALDER: That's correct, your Honor.

10 THE COURT: In all the other cases that are
11 pending here --

12 MR. HALDER: That is correct.

13 THE COURT: Did you apply for position as a
14 program analyst?

15 MR. HALDER: I did apply on many, many
16 occasions, at least, five, ten, fifty, twenty times
17 to each one of those corporations.

18 THE COURT: What is your training as a program
19 analyst?

20 MR. HALDER: I have a Bachelor's degree in
21 electrical engineering from University of Calcutta.
22 Before I came to this country, I was in England
23 for over two and a half years. There I had two
24 years of training with two computer manufacturers.
25 One of them is English Electric Company, Limited,

1 which is the largest computer company outside the
2 United States.

3 THE COURT: What position?

4 MR. HALDER: Program, but it's all the same.
5 Other company --

6 THE COURT: What were your duties as a
7 program analyst?

8 MR. HALDER: Computer programs.

9 THE COURT: What did you do, tell me specifi-
10 cally the duties; how do you program material.

11 MR. HALDER: Well, I think I do have to
12 explain to you the whole thing then. My duty was
13 there to write the test programs for the M-2140
14 computer; that's a line of English electric
15 processes control machines and I did write a part
16 of the test programs for that machine.

17 THE COURT: Specifically tell us what you
18 did. How do you do that?

19 MR. HALDER: Well, In a computer there are
20 two different kinds of jobs. One is called hardware
21 and the other is software. Hardware is the
22 physical machine. The software is the programs
23 which you write, a set of instructions and you feed
24 into the computer and the computer does its work.
25 I was involved in software.

1 THE COURT: What did you do?

2 MR. HALDER: I did write computer programs,
3 to test the hardware.

4 THE COURT: What information did you feed
5 into the machine, was it bookkeeping information?

6 MR. HALDER: It was my job, was to test the
7 hardware, whether the hardware was functioning
8 properly or not.

9 THE COURT: So you were testing the machine?

10 MR. HALDER: That's correct, testing the
11 hardware with software, whether the hardware was
12 functioning properly or not, but in fact 75 per
13 cent of the programs, commercial programs.

14 THE COURT: After you found that the hard-
15 ware was working --

16 MR. HALDER: Whether it was working or not
17 and if it was not functioning properly, then what
18 is the fault with it. That was my duty to find
19 out.

20 THE COURT: Do you know the various component
21 parts of computers?

22 MR. HALDER: I do know most of it.

23 THE COURT: What do you know about it?

24 MR. HALDER: I did write the programs for
25 the processors. Then I had a job with --

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THE COURT: What are the parts of the computer?

MR. HALDER: There's a main part called memory, which --

THE COURT: What's the technical term?

MR. HALDER: Computer memory that is called. Then there's another part called processor which processes all the information. Then there's another part called control unit which controls all the inputs and outputs, the processes and everything. There are various devices, for example, card reader, line printer, magnetic disk, drum, all that, through which the information, input information to the memory and information comes out of the memory and the processor.

THE COURT: Does Shearson use computers?

MR. HALDER: They do.

THE COURT: Did you apply for a job there?

MR. HALDER: I may have a long time ago. I do not recall. The type of job they do is batch processing, mainly commercial work. I prefer not to work in that kind of environment.

THE COURT: You have the deposition? You

1 have it in your file here?

2 MR. ROSENFELD: Not yet. We invited him to
3 come into our office and read it and sign it. We
4 told him if he didn't, we were going to file it
5 anyway. He has so far declined to come into the
6 office. We're going to file it.

7 THE COURT: You read the deposition. Make
8 sure it's correct.

9 MR. HALDER: Might I make one point? He
10 says over here, "Prior to set trial, defendant will
11 no doubt find transcripts unsigned with the Clerk
12 of the Court, therefore available for plaintiff's
13 seal."

14 Whether I have a copy of the deposition,
15 prior to trial or not, how is it going to alter
16 the justice of the case I can make out?

17 THE COURT: I'm not talking about justice.
18 It would be more convenient if you had your own
19 copy. The only question is money. Who's going to
20 pay for it. We have no funds -- can't direct --

21 MR. HALDER: You should direct them to give
22 me the deposition and I'll make a copy of my own.

23 THE COURT: I'll direct them to do what
24 they're obligated to do and that is to file it,
25 file the original in the courthouse and you have free

1 access to it. I don't know how far you've gone in
2 all the other cases but I intend putting all these
3 cases on at the same time and trying them all at the
4 same time. How many cases do you have pending
5 here now?

6 MR. HALDER: Seven all together.

7 THE COURT: I intend putting all seven on.
8 If I thought you were ready this month I could have
9 tried it this month.

10 MR. HALDER: Not this month. I think it
11 would take me a couple of months, two months at
12 least for the trial.

13 THE COURT: You get ready. I won't be able
14 to try it for a few months anyway. The motion to
15 compel the defendant to deliver copy of the
16 deposition is denied. There being no funds available,
17 I cannot supply a free copy but as I said, as soon
18 as you sign it it will be filed. You go over it
19 before you sign it. Make sure it's correct or make
20 any corrections that you think you should make.
21 Then sign it. Then it will be filed. The plaintiff,--
22 of course, if he refuses to do it, file it and
23 give him notice it's filed.

24 MR. HALDER: May I review the copy at my
25 home?

1 THE COURT: I suggest that they give you
2 that courtesy but I won't direct them to do it.
3 It's up to them.

4 MR. HALDER: They have refused to do it.

5 THE COURT: I can't direct them to give you
6 a copy of the review at home. I think that you
7 should be given an opportunity to review it. I
8 think that can be done in their presence. We have
9 a witness room here. You can go into the witness
10 room and decide if it's correct or refuse to sign
11 it.

12 MR. HALDER: It was quite lengthy. It was
13 taken for one and a half days and I think it's
14 going to take me quite some time to review it, the
15 deposition.

16 MR. ROSENFELD: Your Honor, in connection
17 with the procedure that you have just indicated
18 for the handling of Mr. Halder's seven cases so
19 far, may I please say this: There is every indica-
20 tion that because all it takes for Mr. Halder to
21 file a Title 7 is to write out a form, that he
22 will start more actions. How many more we don't
23 know.

24 THE COURT: That's what we're here for.

25 MR. ROSENFELD: Sperry Rand is in a position

1 of having written this gentleman, turned him down
2 14 or 15 times. He has told us that other com-
3 panies -- has given us names and dates of rejection
4 letters numbering in excess of 300.

5 That's the attitude of the potential, he
6 may be tossing it on the Court.

7 THE COURT: You may be entitled to a judgment
8 for costs. If the judgment for costs might run
9 25 to 50 or \$75 for each action, 50 or \$75 times
10 300 is a substantial sum but I can't do any more.

11 MR. ROSENFELD: Since we're here in court
12 before you and you are aware that he has made a
13 motion for leave to amend his complaint, which is
14 his second such motion, we consented to the first;
15 without burdening the Court, is it possible since
16 I can assure the Court that the second proposed
17 amended complaint which he now wants to file here,
18 I can assure the Court that there is nothing new
19 about it except some of the specific dates of the
20 Sperry Rand rejections.

21 Could you prevail upon or could Mr. Halder,
22 rather, be prevailed upon to withdraw that motion
23 on the basis of the Court's assurances which has
24 just be given that he is going to have his day in
25 court?

1 THE COURT: What's the difference if he
2 doesn't have the precise dates? I'll hear it any-
3 way.

4 MR. HALDER: Could I show you something?
5 When I initially filed the complaint, I made a
6 copy from the Clerk's Court, which is a similar
7 one and what I did, I copied almost that complaint,
8 but in fact I did not make only one application.
9 I mean not only one act of discrimination took place
10 but I applied to Sperry Rand Corporation and so on
11 on many, many occasions and each and every time they
12 turned me down. Therefore, I think my complaints
13 should be complete and I should incorporate in my
14 complaints --

15 THE COURT: Do you have objection to the
16 amended complaints since you think it makes no
17 difference?

18 MR. ROSENFELD: It now raises limitation prob-
19 lems that might not have been present with the first
20 complaint because --

21 THE COURT: He's going to have the right to
22 amend it anyway. Do you want to come back and
23 hear me say -- what's the difference, let him
24 amend it. The only argument you'd have is statute
25 of limitations, intervenings or some other difference

1 you might have but if he could have alleged whatever
2 he wants to allege now, first pleaded, I'll give
3 him the right.

4 MR. ROSENFELD: Can Mr. Halder place on the
5 record his assurance he will not make a third
6 motion for relief to amend?

7 THE COURT: Let's not have any conditions.
8 Suppose he later finds something else that he left
9 out and he wants to amend. Am I going to preclude
10 him because he's a pro se petitioner, says he
11 won't amend it again. What kind of promise is
12 that? It's worthless.

13 MR. HALDER: Initially, if I would have
14 known that my complaint has to be complete in
15 each and every respect, I would have incorporated
16 all the dates I applied to Sperry Rand Corporation
17 but I did not know that. Therefore, --

18 THE COURT: I can't give advisory opinions.
19 Everytime I do that in an unguarded moment, I
20 find that's what hits me square between the eyes.
21 I said whether it's quoting contexts or not and I
22 can't remember why I said it, so use your judgment.
23 All I can say is that I find no reason for not
24 permitting him to amend the second time or a
25 third or fourth time.

1 MR. ROSENFELD: Thank you, your Honor.

2 THE COURT: Your company will pay you well.
3 Don't feel too badly about it. You have Sperry
4 Rand. He hasn't, see? He would like to, you have
5 it.

6 MR. ROSENFELD: He has Hayden-Stone.

7 THE COURT: Do we say the motion to amend
8 which was on for January 3rd, was it -- the 17th,
9 is advanced and motion granted. Motion to amend
10 granted? Otherwise we will take another trip down
11 here.

12 MR. ROSENFELD: We'll consent to this second
13 amendment of his complaint and we'll answer within
14 20 days from today.

15 THE COURT: So ordered. It's on the record
16 and the record will show that you did it with the
17 greatest reluctance.

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X

HALDER	:	74 C 1069
	:	74 C 1376
Plaintiff	:	74 C 1377
	:	74 C 1531
against	:	74 C 1532
	:	74 C 1552
SPERRY RAND ET AL.	:	75 C 925
	:	75 C 1761
Defendants	:	

-----X

United States Courthouse
Brooklyn, New York

February 10, 1976
10:00 a.m.

B e f o r e:

HONORABLE JACOB MISHLER,

Ch. U.S.D.J.

SHELDON SILVERMAN
Official Court Reporter

Appearances:

POLETTI FREIDIN PRASHKER FELDMAN & GARTNER, Esqs.
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New York, N.Y. 10017
By: ERIC ROSENFELD, Esq., of counsel

B. HALDER
The Plaintiff, Pro Se

STRASSBERG & STRASSBERG, Esqs.
Attorneys for Quotron Systems, Inc.
By: LOUIS STRASSBERG, Esq., of counsel

SEWARD & KISSEL, Esqs.
Attorneys for I.B.M.
By: KENNETH J. KELLY, Esq., of counsel

CAHILL, GORDON & REINDEL, Esqs.
Attorneys for R.C.A. Corp.
By: JOEL BALSAM, Esq.
and MARTIN L. LIEBERMAN, Esq., of counsel

DEAN C. ROHRER, Esq.
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By: MICHAEL R. TREANOR, Esq., of counsel

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ENGLISH, CIANCIULLI, REISMAN & PEIREZ, Esqs.
Attorneys for Avis Rent-A-Car
By: JEFFREY STARK, Esq., of counsel

WERNER, WEINSTOCK, Esqs.
Attorneys for Informatics, Inc. et ano.
By: JOSEPH G. WILLIAMS, Esq., of counsel

CLIFTON, BUDD, BURKE & DEMARIA, Esq.
Attorneys for Litton Industries
(Not present)

1 THE CLERK: Halder versus Sperry Rand et al.

2 THE COURT: Mr. Halder isn't here. I want
3 this on the record.

4 Have you given Mr. Halder any pretrial
5 discovery?

6 MR. ROSENFELD: Yes, Judge. We answered two
7 interrogatories, which you directed us to answer.
8 We did that approximately five, six months ago.

9 In addition, we have had an offer outstanding
10 to him for him to come to our offices at the Sperry
11 Rand building to inspect all employment records con-
12 cerning the application for employment there. He
13 has not shown up. He has refused that voluntary--
14 partial discovery agreement that we offered to him,
15 your Honor.

16 THE COURT: Have you supplied Mr. Halder
17 with all pretrial discovery?

18 MR. STRASSBERG: We have supplied certain
19 interrogatories. There were motions with respect to
20 other interrogatories which your Honor determined in
21 this matter.

22 THE COURT: Both Sperry Rand and Quotron
23 Systems are ready?

24 MR. STRASSBERG: Yes.

25 MR. KELLY: Ken Kelly, from Seward & Kissel.

1 We are not ready. This action was stayed,
2 all proceedings in it were stayed by stipulation, so
3 ordered by you last May. That stipulation further
4 provided that Mr. Halder was to notify IBM's attorneys
5 of the outcome of his appeal in the RCA case.

6 We have decided between us, since the IBM
7 case and the RCA case--

8 THE COURT: Did that depend upon the DeMatteis
9 decision?

10 MR. KELLY: Yes.

11 THE COURT: That depends upon limitation.

12 MR. KELLY: I understand from the attorneys
13 from RCA that the RCA complaint was reinstated months
14 ago. We haven't heard a word from Mr. Halder. We
15 have conducted no discovery of him. He has con-
16 ducted no discovery of us, although he has served
17 us with interrogatories.

18 THE COURT: Mr. Halder has just arrived.

19 (Mr. Halder enters the courtroom.)

20 THE COURT: Sperry Rand and Quotron say they
21 are ready for trial.

22 IBM says you came to an agreement and you
23 advised them when the RCA appeal was determined, and
24 I vacated that, vacated the order of dismissal some
25 time ago, but you never advised them of that. Did

1 you serve a complaint?

YOUR

2 MR. HALDER: Beg, pardon?

3 THE COURT: Did you serve an amended complaint
4 on IBM?

5 MR. HALDER: I don't recall exactly.

6 MR. KELLY: Yes, several months ago.

7 THE COURT: Was it answered?

8 MR. KELLY: Yes, your Honor, it was.
9 I think that was all last spring.

10 THE COURT: All we're talking about are
11 pretrial.

12 MR. KELLY: That's right, your Honor.

13 THE COURT: Were interrogatories served?

14 MR. KELLY: Served the same interrogatories on
15 us which I believe he served on everyone else. We
16 have not answered them according to all stipulations
17 staying discovery proceedings.

18 THE COURT: If you're not ready, that will
19 have to go over.

20 MR. TREANOR: We're ready, your Honor.

21 THE COURT: Have you supplied all the pretrial
22 discovery that Mr. Halder asked for and was entitled
23 to?

24 MR. TREANOR: We haven't answered the inter-
25 rogatories, your Honor. The action was dismissed.

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1 I understand just yesterday or the day before the
2 original complaint was reinstated.

3 THE COURT: Was this also based on DeMatteis?

4 MR. TREANOR: Yes, your Honor.

5 THE COURT: ITT Corp.

6 MR. TREANOR: Ready, your Honor. We have not
7 answered interrogatories. I believe just about now
8 a decision is being made denying our motion to
9 dismiss based on DeMatteis.

10 THE COURT: Did you move to dismiss on the
11 same ground?

12 MR. TREANOR: Yes.

13 THE COURT: Did I pass on the motion?

14 MR. TREANOR: No, your Honor. Everything was
15 held up until DeMatteis was decided.

16 THE COURT: Avis Rent-A-Car?

17 MR. STARK: We're ready except trial counsel
18 is engaged this morning in a criminal trial out in
19 Nassau County. We responded to the plaintiff's
20 interrogatories except for those to which we moved--

21 THE COURT: Isn't there anyone else in the
22 office who could try this case?

23 MR. STARK: We only got a phone call from
24 your chambers, I believe, on Thursday, and counsel
25 who had handled this throughout the proceedings was

1 called to a trial on a criminal defendant who is
2 incarcerated, and had no alternative but to appear
3 this morning.

4 THE COURT: There are four attorneys--

5 MR. STARK: Twelve attorneys in this office.

6 THE COURT: All twelve busy.

7 MR. STARK: I'm here, your Honor, myself.

8 I have no knowledge of these proceedings until yes-
9 terday at approximately six p.m.

10 THE COURT: Informatics?

11 MR. WILLIAMS: The attorney who is handling
12 the case became ill, called me last night. I don't
13 have the file, but we're ready to go.

14 THE COURT: Litton Industries?

15 (There was no response.)

16 THE COURT: Anyone here?

17 (There was no response.)

18 THE COURT: RCA?

19 MR. BALSAM: Ready with the exception I told
20 your Clerk last week, we do have two available
21 witnesses. There are other persons who are involved
22 with Mr. Halder's application as to RCA that are
23 no longer with the company, primarily as a result of
24 the shut-down of the computer systems division, and
25 they are relatively scattered all over the United States.

1 We are ready to go on a limited basis now,
2 though.

3 THE COURT: Have you given Mr. Halder all the
4 pretrial discovery that he's entitled to?

5 MR. BALSAM: We have not answered his inter-
6 rogatories, which is the only discovery he has sought.

7 THE COURT: Why not?

8 MR. BALSAM: We had a stay based on the
9 DeMatta's decision, and we had objections filed and
10 nothing has come about since the decision was re-
11 instated in November.

12 MR. BALSAM: I would note when we moved for
13 summary judgment based on DeMatta's, Mr. Halder moved
14 for cross summary judgment stating no material issues
15 of fact were involved. Apparently he did not feel
16 the necessity for any discovery at that stage if he
17 was willing to move on that basis.

18 THE COURT: Mr. Halder advised me when I told
19 him these cases would go to trial, that he required
20 further discovery. I don't know how many matters
21 are pending in the Court of Appeals now. Can you
22 tell me, Mr. Halder?

23 MR. HALDER: Only one is pending in the Court
24 of Appeals, only Avis Rent-A-Car case is pending in
25 the Court of Appeals, only one.

23D

1 THE COURT: That's a mandamus, I understand.

2 MR. HALDER: ^{YOU} Denied my motion for ^A preliminary

3 injunction. I moved against that decision.

4 THE COURT: Who is here from Avis?

5 MR. STARK: I am.

6 THE COURT: Do you know anything about that?
7 Has that been on the calendar yet?

8 MR. STARK: I don't believe it is, your Honor.
9 I didn't even know an appeal was served from your
10 denial of motion and preliminary injunction which
11 sought for-- no stay has been obtained in the Court
12 of Appeals.

13 THE COURT: As I see it, the only cases that
14 are ready for trial are Sperry Rand, Quotron Systems
15 and Informatics. The others you haven't completed
16 the pretrial discovery. I'm sure Mr. Halder won't
17 go on without pretrial discovery.

18 MR. HALDER: ^{YOUR} I said when I spoke to ~~the~~ Clerk
19 last Thursday, repeated that in my letter to you on
20 Sunday that pretrial discovery is not completed.
21 ONLY
22 You have given a ruling in one case, against Avis,
23 denying my motion to compel the defendant to answer
24 the interrogatories. I'm already in the appeals
25 court in my case against Avis.

THE COURT: What pretrial discovery do you say

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1 you're entitled to that wasn't given to you?

2 MR. HALDER: That was primarily--

3 THE COURT: I asked Sperry Rand, Quotron, and
4 I asked Informatics. They tell me that they've
5 supplied you with the pretrial discovery you're
6 entitled to.

7 MR. HALDER: You haven't given a final ruling
8 ANY OF
in my cases other than Avis.

9 THE COURT: Sperry Rand, is that true?

10 MR. ROSENFELD: No, Judge. Maybe I can
11 refresh Mr. Halder's recollection. He served inter-
12 rogatories, to which we objected. He then moved to
13 compel answers to those interrogatories. You denied,
14 ~~the~~ ^{THOUGH} the motion except as to two interrogatories. As
15 to those two, we answered Mr. Halder some six or
16 eight months ago. He then made a motion for re-
17 argument of his discovery motion. You denied that
18 by decision dated yesterday. As I stated before,
19 Mr. Halder, before he arrived, in addition to
20 supplying answers to two interrogatories as directed
21 by your Honor about six months ago, we also made an
22 offer to Mr. Halder to examine our records at Sperry
23 Rand, which he has refused, failed to do. Discovery
24 is complete.

25 THE COURT: In effect, what discovery did you

Q3P

1 give him on the issues in this case? What did you
2 turn over to him?

3 MR. ROSENFELD: A list of all the court and
4 agency national origin cases against Sperry Rand,
5 with names of complainants, addresses of the
6 agencies, and so forth.

7 THE COURT: What else did he ask for that was
8 denied?

9 MR. ROSENFELD: He asked for an itemization of
10 all the computer programmers and analysts hired by
11 Sperry Rand or any of its four hundred plus
12 facilities, showing, starting from 1968 or '69, show-
13 ing for each such person the name, qualifications,
14 sex, race, national origin, et cetera.

15 In addition to the persons we hired as
16 computer programmers, he sought similar information
17 as to all those who applied for computer programming
18 jobs and were denied those jobs.

19 It was in interrogatories of that sort, of
20 that magnitude, which you have now twice ruled
21 Mr. Halder is not entitled to have answers from
22 Sperry Rand.

23 THE COURT: So far I have nine actions pending
24 in this court, Mr. Halder. Are there any other
25 actions pending in this court? I have nine.

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1 MR. HALDER: No.

2 THE COURT: RCA, Sperry Rand, Quotron Systems,
3 Informatics, IBM, General Tel and Electric, ITT,
4 Avis Rent-A-Car and Litton Industries. Any others?
5 That's it so far.

6 MR. HALDER: Yes.

7 THE COURT: Have you made any applications
8 for a job to anyone else that are outstanding?

9 MR. HALDER: That is correct.

10 THE COURT: How many?

11 MR. HALDER: Hundreds of corporations.

12 THE COURT: Hundreds. Did you intend to
13 bring actions on the basis of a denial of any of
14 those applications?

15 MR. HALDER: I cannot tell you. It all de-
16 pends.

17 THE COURT: Are you ready to proceed on
18 Sperry Rand, Quotron and Informatics?

19 MR. HALDER: As I said to you, I'm not ready
20 to proceed to trial because pretrial discovery is
21 not completed.

22 THE COURT: You're directed to proceed.
23 Pretrial discovery has been made to the extent you
24 were permitted, denied on matters burdensome and
25 irrelevant to the issues.

1 MR. HALDER: I disagree with you.

2 THE COURT: I know you do, but I'm ready. Are
3 you ready?

4 MR. HALDER: No, I'm not.

5 THE COURT: Do you refuse to go to trial?

6 MR. HALDER: Yes. ^{SUR} I do have a few words to say.

7 MR. ROSENFELD: On that ground Sperry Rand
8 moves to dismiss the complaint and all of the several
9 amended complaints which Mr. Halder so far has filed
10 against Sperry Rand Corporation.

11 MR. STRASSBERG: If it please the Court, the
12 defendant Quotron Systems, Inc. joins with the motion
13 of the defendant Sperry Rand with respect to the
14 complaint and various amended complaints that have
15 been served upon us.

16 MR. WILLIAMS: If it please the Court,
17 Informatics makes a similar motion for dismissal.

18 THE COURT: I'll tell you what I would like to
19 do--

20 MR. BALSAM: As I mentioned previously,
21 Mr. Halder did file a cross motion for summary
22 judgment against RCA asserting at that time that
23 there were no material issues of fact, presumably on
24 the basis of that motion that he needs no more
25 discovery from ^{RCA} RAE, no matter what interrogatories he

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file. I think we are prepared to go now unless Mr. Halder was perhaps exaggerating his claims at that stage.

THE COURT: Mr. Halder, I just want to tell you that if you're not prepared to proceed, I intend to dismiss the complaints in Sperry Rand, Quotron, Informatics, Inc.

MR. HALDER: As I said to you--

THE COURT: You cannot come into this court now -- one case is 74-C-1069. The other is 1376 of 1974. That means that this case is at least a year or older. The other '75, Informatics, Inc. is 925. That would bring it to about September of 1975.

MR. HALDER: As I said to you, that I made my motions against these corporations, last June. You're yet to give a ruling on my Rule 9M motion.

THE COURT: Is this for summary judgment?

MR. HALDER: This is a motion to reargue my motion--

THE COURT: All motions that I have decided and where reargument has been asked for have been denied. All motions to reargue are denied, pre-trial discovery motions. I gave them full and complete consideration. You pointed out no fact or rule of law that I overlooked in deciding it originally.

298

1 Reargument is denied.

2 Decisions were filed yesterday. I don't know
3 whether any are outstanding. There are so many
4 motions in all these cases it's difficult for me to
5 keep track of them.

6 Quotron systems, motion to reargue is denied
7 and determination was filed yesterday.

8 On Sperry Rand, same situation.

9 Are you ready to proceed?

10 MR. HALDER: As I said, I'm not. I have a
11 few words to say. They have raised the question
12 in their motion to dismiss--

13 THE COURT: I'm talking about Sperry Rand.
14 Those are the only actions I'll consider, because
15 the other lawyers did not tell me they are ready
16 to proceed. Sperry Rand, Quotron and Informatics.

17 MR. HALDER: As I said to you that I do have
18 to have the competent evidence to establish my case.

19 THE COURT: I would think so, yes.

20 MR. HALDER: I do not have that evidence yet
21 and you appear to have not ruled on that motion.
22 You said you ruled yesterday. I'm ^{YET} ~~here~~ to receive
23 your decision.

24 THE COURT: Did you advise Mr. Halder on the
25 telephone?

1 THE LAW CLERK: I told him what would happen
2 and that we had the decision to be filed. I have
3 copies of the decisions available here.

4 THE COURT: Thank you.

5 Originally when you were called on the tele-
6 phone, Mr. Halder, and you were told to get ready,
7 you said that you would not get ready; you would not
8 be prepared to proceed.

9 MR. HALDER: That is correct. Without the
10 pretrial discovery.

11 THE COURT: You understand that I ruled on
12 those motions a long time ago? You cannot keep
13 these matters open by reargument. You weren't entitled
14 to it. You weren't entitled to it then. You're not
15 entitled to it now. You will not be entitled to it
16 tomorrow, next week or next year.

17 MR. HALDER: I didn't know that. You just
18 decided that yesterday. I'm ^{YET} ~~have~~ to receive your
19 decision.

20 THE COURT: You know what you have to go on,
21 don't you?

22 MR. HALDER: No, as of today I don't.

23 THE COURT: You can't even testify that you
24 sent an application.

25 MR. HALDER: I can, but I do--

1 THE COURT: You can't testify that it was
2 denied? You can't testify that it was based on
3 some form of discrimination, either race, religion,
4 national origin, alienage?

5 MR. HALDER: The thing is I have to--

6 THE COURT: What did you start the action
7 on, simply on the denial of a job, refusal to hire
8 you?

9 MR. HALDER: That is correct.

10 THE COURT: Nothing else?

11 MR. HALDER: Refusal to hire on ~~the~~ grounds
12 of discrimination.

13 THE COURT: What is the basis of discrimina-
14 tion?

15 MR. HALDER: My color, national origin.

16 THE COURT: That's what you say. What's the
17 basis, what proof do you have of that?

18 MR. HALDER: That's why I said I have to have
19 the evidence. That means I have to know who they have
20 hired.

21 THE COURT: When you started this action,
22 did you have anything more than a refusal to hire?
23 Were you interviewed?

24 MR. HALDER: Yes, once.

25 THE COURT: What questions were asked when you

32A

1 were interviewed?

2 MR. HALDER: Questions what they wanted to
3 ask, what did I do before, what I was doing at that
4 time.

5 THE COURT: What did you tell them?

6 MR. HALDER: Whatever they asked me. I answered
7 those questions.

8 THE COURT: What is your background? What job
9 did you apply for?

10 MR. HALDER: Computer programmer.

11 THE COURT: In every one of these cases?

12 MR. HALDER: That is correct.

13 THE COURT: I understand that you graduated
14 from a university in India.

15 MR. HALDER: Yes, that's correct, University
16 of Calcutta.

17 THE COURT: What year?

18 MR. HALDER: ¹⁹⁶³ ~~1973~~, Bachelor, ^{OF} ~~subject~~ engineer-
19 ing.

20 THE COURT: What course did you take?

21 MR. HALDER: Electrical engineering.

22 THE COURT: What training and background did
23 you have as a computer programmer?

24 MR. HALDER: I worked for two years with
25 two of the five largest computer manufacturers ~~OF~~

330

1 ~~England~~. THE WORLD.

2 THE COURT: Who is that?

3 MR. HALDER: English Electric and Honeywell.

4 You may call them International. ~~COMPUTERS LIMITED~~.

5 THE COURT: Why not get on the stand and
6 testify to these things?

TESTIFY

7 MR. HALDER: I'm not able to estimate my
8 case yet without pretrial discovery. Without
9 pretrial--

10 THE COURT: You are not getting the pretrial
11 discovery you asked for. Even though you're a lay-
12 man, you've become an expert in bringing these
13 actions. I haven't tried nine cases charging dis-
14 crimination of employment. I haven't tried --
15 I don't know that I've tried any. You have eleven.
16 You've made more motions in these nine cases for
17 pretrial discovery than I think I've had in the rest
18 of my calendar during the last year. You're an
19 expert. You're not the ordinary layman who comes
20 into court and doesn't know the rules.

21 MR. HALDER: I didn't come to this country
22 to become an expert in making motions.

23 THE COURT: I don't know why you came to this
24 country. You've become an expert in motion practice.

25 MR. HALDER: I didn't come to this country for

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1 that purpose.

2 THE COURT: Will you take the stand and
3 testify?

4 MR. HALDER: I have one thing to say.

5 THE COURT: I would like to put what you say
6 under oath. All your background, your training.
7 You have your college degree with you?

8 MR. HALDER: No, I don't.

9 THE COURT: Have you ever shown it to any
10 of the--

11 MR. HALDER: If they wanted to, I would have
12 definitely. Without seeing my qualifications, the
13 Government, they do not grant a visa without seeing
14 all the qualifications. They were verified, all the
15 qualifications, and then ^{THEY} granted me a visa.

16 THE COURT: What did you do with these two
17 computer outfits? You say they were manufacturers.

18 MR. HALDER: Yes.

19 THE COURT: Where are they located?

20 MR. HALDER: England.

21 THE COURT: How large a firm?

22 MR. HALDER: Both of them, they are two of
23 the five largest computer manufacturers of the world.
24 ^{OR FOURTH, OR FIFTH.}
One is the second, the other is third, I'm not sure.

25 THE COURT: What did you do in the firm?

350

1 MR. HALDER: I wrote particular programs. That
2 is the program which finds out whether the computer
3 is functioning properly or not.

4 THE COURT: Tell me specifically what it
5 entailed.

6 MR. HALDER: Whether or not the computer is
7 functioning properly, the program that finds out
8 whether or not the computer is functioning properly.
9 The computer has many different parts. Once in a
10 while they go out of order and then it's the job of
11 the engineer to find out whether or not that ^{PART} is
12 functioning properly.

13 THE COURT: You fix the machine?

14 MR. HALDER: No, my programs tell the engineer
15 whether or not that particular part is functioning
16 properly.

17 THE COURT: How long did you have the job?

18 MR. HALDER: Two years.

19 THE COURT: Both firms?

20 MR. HALDER: A year each.

21 THE COURT: Anything else you want to say?

22 MR. HALDER: When I came to America I had
23 a bachelor's degree and experience with two of the five
24 largest manufacturers of the world. At that time
25 I applied to all these corporations. At that time

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1 Sperry Rand Corporation ^{HIRED} ~~was~~ indeed ~~hiring~~ one
2 ^{CAME} person who just ~~came~~ out of college.

3 THE COURT: I'm ready to try this case
4 further.

5 MR. HALDER: I'm not ready for trial.

6 THE COURT: I'm ready to try it and I'm
7 going to try it. You have a choice. The case will
8 either be tried or dismissed.

9 MR. HALDER: I'm telling you why I'm not
10 ready for ~~x~~ trial.

11 THE COURT: You already said it. If you
12 would like to add to it, go ahead for the record.

13 MR. HALDER: That they did not hire me. With-
14 out ~~doing~~ any pretrial discovery, I have only one
15 piece of document with me which says that they have
16 hired a person who just came out ^{OF} college with a
17 ²⁶⁰⁰ bachelor's degree and ~~a~~ year's of experience in
18 industry. By the time I came to court, they told
19 me I'm an ^{ERSTWHILE} ~~S-12~~ computer programmer. This person
20 had five years of experience.

21 THE COURT: Who told you you're an expert
22 computer--

23 MR. HALDER: ^R Erstwhile.

24 THE COURT: What is that? Oh, Erstwhile. Who
25 said that?

SJD

1 MR. HALDER: Mr. Rosenfeld.

2 THE COURT: Why not take the stand and testify
3 to your qualifications and show--

4 MR. HALDER: He said in his affidavit, first
5 line of his second paragraph.

6 THE COURT: Anything else you would like to
7 say?

8 MR. HALDER: Yes.

9 THE COURT: Go ahead.

10 MR. HALDER: That he said to me I'm an ~~SR~~^{ERSTWHILE}
11 computer programmer the day I walked into this
12 court. This person, he had five years of experience
13 in the computer industry. His salary was \$17,328.
14 Once the discovery is complete I should be able to
15 produce hundreds and hundreds of such documents,
16 ~~even~~ ^{MAY BE} thousands and that's going to prove in the last
17 six years they have hired hundreds and hundreds or
18 thousands of computer programmers who are less
19 qualified. ~~THAN I AM.~~

20 THE COURT: Are you ready to proceed?

21 MR. HALDER: ~~Yes.~~ NO.

22 THE COURT: You refuse to go ahead.

23 MR. HALDER: Yes.

24 THE COURT: Will Quotron or Sperry Rand,
25 Quotron and Informatics, because this plaintiff

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1 comes in pro se, I want to make certain the record
2 is clear on what was done here, even though you
3 don't have the affirmative on it, I want you to put
4 your cases in. Will you please do that. I want
5 affirmative proof if you have it to support your
6 defense as if he testified in the manner in which
7 he related his claim.

8 (Recess)

9 THE COURT: Call your witness, please.

10
11 F R A N K D O U G L A S A D A M S, J R., called
12 as a witness, having been duly sworn by the Court
13 Clerk, testified as follows:

14 DIRECT EXAMINATION

15 BY MR. ROSENFELD:

16 Q Mr. Adams, what is your position with Sperry
17 Rand Corporation?

18 A Assistant Secretary, Personnel Administrator,
19 executive offices.

20 Q Where are those executive offices located?

21 A 1290 Avenue of the Americas, New York, New
22 York.

23 Q How many persons are employed by the corporation
24 at that address?

25 A Possibly three hundred.

259D

Adams-direct

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2 Q Approximately how many employees in the
3 United States does Sperry Rand Corporation have?

4 A Approximately 60,000.

5 Q At approximately how many facilities in the
6 United States?

7 A Approximately 450 facilities.

8 Q Am I correct, you are now talking about the
9 over 400 so-called operating facilities?

10 A That is correct.

11 -Q Am I correct, at 1290 Avenue of the Americas
12 is purely executive offices only?

13 A That is correct.

14 Q Mr. Adams, are any computer programmers em-
15 ployed at the Sperry Rand executive offices?

16 A No, they are not.

17 Q When did you become the personnel
18 administrator of the Sperry Rand executive offices?

19 A Approximately 1967.

20 -Q Mr. Adams, am I correct it is very common for
21 persons seeking employment or inquiring about employment
22 to send in letters blind to Sperry Rand Corporation at
23 1290 Avenue of the Americas?

24 A Yes, that is so.

25 Q During the years when you have been the

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2 personnel executive, approximately how many inquiries
3 have come in daily?

4 A We get about forty to fifty such letters a
5 day.

6 Q Please tell us, briefly -- I gather there was
7 a period, the late 60's, early '70, when you were the
8 person responsible for reviewing these inquiries?

9 A That is right.

10 Q Tell the Court, please, what procedure did
11 you follow?

12 A The review of these inquiries was done as
13 time permitted. My main functions were to supervise the
14 personnel staff of the executive offices for the, roughly,
15 three hundred executives there. Very few of these letters
16 pertain to jobs that we might have available in the execu-
17 tive offices. Most of the personnel in the executive
18 offices are promoted from within the organization.

19 As time permitted during the day or sometimes
20 on the way home on the train, I would scan these letters
21 and either call the people in, if on the odd chance that we
22 might have an opening for them, or reject them, or send
23 them to one of our operating divisions if I felt there might
24 be a possibility they could use them. This is the way we
25 handle it.

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Q Am I correct that you received such blind inquiries from Mr. Halder among the thousand or tens of thousand of others?

A Yes, that is right.

Q Would you tell the Court how many such inquiries did you receive and personally review from Mr. Halder?

A I believe I reviewed three of them.

Q Tell us, please, with respect to each of the inquiries, when they came in, what you did about them.

A There was one, early in 1968, I believe, that I forwarded to certain of our operating divisions; one later, I believe, also in '69, that I also forwarded. A third one I rejected.

Q Do you have any knowledge with respect to the first two in 1969 as to what if anything happened after you forwarded the two Halder inquiries to other divisions?

A No, I do not.

Q After sending those-- Incidentally, Mr. Adams, when you forwarded those two inquiries to other divisions, did you give any notice of that fact back to Mr. Halder?

A Yes, we wrote to him, told him of this.

Q Am I correct with respect to the first one of those, he was living or apparently living in England at the time?

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A That is right.

Q After sending those two letters to Mr. Halder, when did he next come to your attention?

A At the time we received a complaint from the EEOC.

Q Is that when the EEOC investigator showed up at Sperry Rand?

A That is right.

Q That was, if I'm not mistaken, in December of 1973, Mr. Adams?

A That is right.

Q Which was approximately three, four years after he had sent those letters?

A That is right.

Q With respect to the rejection letter, am I correct you sent that directly to Mr. Halder?

A That is right.

Q And you were examined about that particular letter by the EEOC investigator?

A That is right. The EEOC examiner told us that was the only letter they felt was timely to examine.

Q On what basis, if you recall, did you write the letter of rejection to Mr. Halder which the EEOC told you was timely and they were investigating?

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2 A I just felt the operating divisions would not
3 have any need for Mr. Halder.

4 THE COURT: Do you have his letter of inquiry
5 of his application?

6 Q Mr. Adams, I show you a copy of a resumé
7 which is time-stamped July 23, 1970, FDA. Those are your
8 initials, sir?

9 A That is correct.

10 Q Is this a copy of the resumé that came in in
11 July of '70 on the basis of which you rejected the inquiry?

12 A That is correct.

13 MR. ROSENFELD: I offer it into evidence as
14 a Sperry Rand Exhibit No. 1.

15 THE COURT: You said "inquiry." Is that all
16 that came in with the letter?

17 THE WITNESS: No, a letter attached--
18 a hand-written letter attached to this.

19 THE CLERK: So marked as Defendant Sperry
20 Rand Exhibit A in evidence.

21 (So marked)

22 Q Mr. Adams, is this letter from yourself to
23 Mr. Halder dated July 31, 1970, the letter which the EEOC
24 told you was the only rejection by Sperry Rand that it was
25 investigating?

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2 A That is correct.

3 MR. ROSENFELD: I offer this exhibit.

4 THE CLERK: So marked, as Defendant Sperry
5 Rand's Exhibit B in evidence.

6 (So marked)

7 Q Mr. Adams, did Mr. Halder's national origin
8 play any role whatsoever in your decision as reflected in
9 that exhibit, to send him a rejection letter?

10 A Absolutely not.

11 Q Did his religion?

12 A Absolutely not.

13 Q Did his color?

14 A Absolutely not.

15 Q Did the fact that he is an alien?

16 A Absolutely not.

17 Q Does Sperry Rand Corporation or any of its
18 divisions, to your knowledge, maintain any records whatso-
19 ever identifying employees of Indian national origin?

20 S It's my understanding that our Univac Division
21 employs certain Indians, I believe, about fifty-five, in
22 their sales organization somewhere in the United States.

23 Q Am I correct, you ascertained that fact this
24 morning?

25 A That's right.

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Q Are those fifty-five citizens or non-citizens?

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A Non-citizens. A U.S. citizen would not be

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flagged in any way whatsoever.

5

Q Am I correct that one of the principal products

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of the Univac Division to which you just referred is the

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manufacture of computers?

8

A That is correct.

9

Q Would I also be correct, of all the Sperry

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Rand operating divisions and facilities it would be Univac

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Division and Univac facilities which would have the greatest

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need for computer programmers because of the fact they're

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in the computer business?

14

A That is so.

15

Q Is it also a fact that according to Mr. Halder's

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resumé which he sent you in 1970, on the basis of which you

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acted, he had no prior experience with the Univac computer?

18

A That is correct.

19

MR. ROSENFELD: No further questions.

20

THE COURT: You may step down.

21

(Witness excused)

22

THE COURT: ~~May~~ I have someone from Quotron?

23

Are you offering the deposition? It's up to you.

24

MR. ROSENFELD: No, your Honor.

25

THE COURT: Very well.

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Quotron?

L L O Y D W. A L T O N, called as a witness,
having been duly sworn by the Clerk of the Court,
testified as follows:

THE CLERK: Full name.

THE WITNESS: Lloyd, L-l-o-y-d, W. Alton,
A-l-t-o-n.

DIRECT EXAMINATION

BY MR. STRASSBERG:

Q By whom are you employed, and in what capacity?

A Employed by Quotron Systems, Incorporated,
~~FORMERLY~~
~~formerly~~ known as Scantlin Electronics. I am administrator
of the Northeast Region.

Q As part of your duties, are you also involved
with personnel, sir?

A Yes, I am.

Q Are you familiar with the number of offices
that Scantlin has?

A Yes.

Q How many?

A Thirty-five.

Q How many employees does Quotron have?

A About 450.

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2 Q In the Northeast Region how many employees
3 does Quotron have?

4 A Northeast Region, I would say about a hundred.

5 Q Are you familiar with the ethnic makeup of
6 the employees of Quotron in the Northeast Region?

7 A I only have it for New York City. I don't
8 have it for the whole region.

9 Q How many employees are there in the New York
10 City region?

11 A Eighty-three.

12 Q Do you know of your own knowledge the break-
13 down of the ethnic groups of approximately 83 employees?

14 A Yes, I do.

15 Q Could you tell us what they are, please.

16 A Non-minority people, we have 61, Negroes 12,
17 Orientals 4, Spanish-American 5. I correct myself. It was
18 the total of 82, not 83.

19 Q Those categories are kept in that fashion
20 pursuant to various Government regulations?

21 A Pursuant to Equal Opportunity Commission,
22 a report we must file every year.

23 Q How many computer programmers are there in
24 the New York area?

25 A Seven.

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2 Q Of the seven computer programmers in the New
3 York Area, sir, do you have the number of non-white com-
4 puter programmers?

5 A We have two Orientals, the rest are non-
6 minority.

7 Q Out of seven?

8 A Yes, sir.

9 Q You wouldn't know the breakdown on a minority-
10 non-minority basis of the total 400-odd employees of Quotron,
11 would you sir?

12 Q Yes, I do have that information.

13 Q Could you tell us what that is if you know.

14 A I don't have it here; it's in my briefcase.
15 I thought I did. It represents roughly ten percent of the
16 population of the non-minority, or ten percent of the minority
17 groups.

18 Q In the New York office it represents over 25
19 percent; is that correct?

20 A Yes.

21 Q There was a hearing before the Equal Employ-
22 ment Opportunity Commission with respect to a complaint by
23 Mr. Halder.

24 A Yes.

25 Q That's the plaintiff in this action.

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A Yes.

Q Sir, I show you a copy of a decision in a case entitled Halder, charging party, versus -- I'm sorry --

THE COURT: The findings there wouldn't be binding on this court.

MR. STRASSBERG: If it please the Court, I have the wrong one at that point.

THE COURT: It wouldn't matter, only what he said might matter, but the findings wouldn't matter.

Q The findings there were to the effect that there was no discrimination; is that correct?

A That is correct.

THE COURT: That's why he's here, so it wouldn't be binding.

Q Mr. Halder is still submitting resumes to you, isn't he?

A Yes, sir, every time we advertise for a computer programmer, we receive the same resume from Mr. Halder by certified mail. Identical resume we receive every time.

Q The last one you received was approximately November of 1975, was it not?

A Yes.

Q That's the one that still shows his last

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2 employment as being an employment for a period of three
3 months as a computer programmer sometime in 1970; is that
4 correct?

5 A Right.

6 Q Then it shows a three-month or six-months
7 hiatus before that and a prior employment as a computer
8 programmer for six months, does it not?

9 A That's correct.

10 Q I think those are the only two computer pro-
11 grammer listings on there in the United States; is that
12 correct?

13 A That is correct.

14 THE COURT: Is the method or procedure
15 changed in the last three years so that a programmer
16 who is expert in 1970 or 1973 might not be able
17 to handle the present computers?

18 THE WITNESS: Indeed, yes, your Honor, par-
19 ticularly with our company. We, during the past
20 three years or so developed and manufacture a mini-
21 computer, which is a highly specialized piece of
22 equipment that is used for a specific service.

23 I dare say it's limited, we have only two competitors
24 in the business. It behooves us to find programmers
25 who are communications oriented and mini-computer

oriented to do the job for us.

MR. STRASSBERG: No further questions.

THE COURT: For the failure and refusal of
the plaintiff to proceed, the complaints are dis-
missed in Halder against Sperry Rand Corp., Halder
against Quotron Systems, Inc., and Halder against
Informatics, Inc. The clerk is directed to enter
judgment in favor of the defendants and against the
plaintiff dismissing the complaints.

I hope, gentlemen, that in the other actions,
as I indicated, the pretrial discovery be as com-
plete as you can possibly make it, keeping in mind
that this plaintiff is proceeding pro se. As soon
as all the proceedings have been completed, I will
set it down for a trial, consolidated trial. I tell
you, Mr. Halder, that I suggest you do everything in
your power to get ready. This Court will not coun-
tenance delay, whether it's pro se or by attorney.
We have a certain amount of understanding for the
limitations of a layman who comes in pro se. You're
not just the ordinary layman who comes in. You've
carefully studied the statute, carefully studied the
procedures.

I find that your refusal to proceed today was

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1 a knowing and willful act, solely designed for
2 delay for whatever benefit you thought you could
3 derive from the delay.

4 MR. STRASSBERG: If it please the Court, your
5 Honor, I respectfully submit, your Honor, that it is
6 my understanding of Title 7 that the Court has the
7 power and authority to award legal fees to either
8 party in such an action brought under that statute.

9 Your Honor has heard a plaintiff who is un-
10 prepared to proceed in this action, testify that
11 he's got a calculated scheme whereby he submits
12 to hundreds and hundreds of companies these resumes.

13 I respectfully submit, your Honor, that he
14 has, as my own witness testified, been submitting
15 these resumes to us as recently as November of 1975;
16 everything carefully registered.

17 He has filed complaints and commenced actions
18 according to what he has testified under oath at
19 deposition and what he has stated before your Honor.
20 He's brought nine actions before your Honor alone.

21 I respectfully submit that the defendant
22 Quotron be awarded legal fees in this instance so
23 that the plaintiff will know that he, as a pro se
24 individual, shall not be allowed to constantly
25 harass various corporate defendants solely because

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1 they are corporations, to put them to the burden
2 and expense of defending themselves.

3 For that purpose, your Honor, if your Honor
4 grants legal fees to the defendant Quotron, I respect-
5 fully submit that we have a hearing fixed at which
6 time we can testify to the value of the services
7 rendered.

8 THE COURT: I'm ready to consider the appli-
9 cation.

10 MR. WILLIAMS: We make the same application.

11 MR. STRASSBERG: Do you wish to consider it
12 now or at a future date?

13 THE COURT: If you're ready to proceed. Tell
14 me now.

15 MR. STRASSBERG: I'm prepared to testify as
16 to the amount of time I spent, your Honor.

17 MR. ROSENFELD: Sperry Rand is not making
18 this application. Are we excused?

19 THE COURT: Surely.

20 MR. ROSENFELD: Thank you, Judge.

21 MR. WILLIAMS: For the record, the Court
22 reporter was not present when we discussed Instamatics
23 case before. I should put on the record we answered
24 all interrogatories, gave Mr. Halder access to all
25 records, certain rights of privacy. In addition,

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1 we're placed in a particular burden since we took
2 Mr. Halder's deposition and I did part of that as a
3 former systems manager for Equitable and questioned
4 him as to each area of each application, and he was
5 not conversant with any of the equipment of Infor-
6 matics, indeed, had only four months experience
7 with System 360/30, a lesser computer.

8 Thank you, your Honor. I am not at this point
9 prepared to submit the exact cost.

10 THE COURT: I'll entertain any application
11 at any future time. Where do you say Title 7 gives
12 you the right to legal fees?

13 MR. WILLIAMS: ^{MAY} ~~might~~ I be excused?

14 THE COURT: Yes.

15 MR. ROSENFELD: I said, your Honor, it's my
16 understanding under Title 7, the Court can award
17 legal fees.

18 THE COURT: Here it is under Section ~~2000-3~~,
19 Subdivision 3. "In any action commenced pursuant
20 to this subchapter, the Court in its discretion may
21 allow the prevailing party...as reasonable costs."

22 Take the stand and tell me what the costs of
23 Quotron were.

24 MR. HALDER: Could I make one thing as part
25 of the ^{RECORD} ~~report~~, please?

1 THE COURT: You're in default; you refused
2 to proceed.

3 MR. HALDER: By the reason why I refuse to
4 proceed--

5 THE COURT: I won't hear anything further.
6 You had your opportunity. If you want to mark it,
7 you can mark it. Make it a part of the record.

8 MR. HALDER: I wish to do that, sir.

9 THE CLERK: Two-page document marked Plain-
10 fiff's Exhibit 1 for identification.

11 (So marked)

12
13 L O U I S S T R A S S B E R G, called as a witness,
14 having been duly sworn by the Clerk of the Court,
15 testified as follows:

16 THE CLERK: Full name, please.

17 THE WITNESS: My name is Louis Strassberg,
18 32 Winding Road, Rockville Centre, New York.

19 If it please the Court--

20 THE COURT: Put it in narrative form.

21 THE WITNESS: I'm a member of the firm of
22 Strassberg & Strassberg. Our principal offices are
23 at 1 Pennsylvania Plaza, New York, New York.

24 We have been the attorneys for the defendant
25 Quotron Systems in an action brought by the plaintiff,

1
2 Mr. Halder. We were originally retained in this
3 matter in approximately November of 1974, shortly
4 after the commencement of an action, Title 7 pro-
5 ceeding, by this plaintiff against the defendant.
6 We rendered services between the period October
7 24, 1974, and December 13, 1974, having a value of
8 \$1500 predicated upon the basis of \$100 per hour
9 of services rendered.

10 We additionally had disbursements in the
11 amount of \$133.

12 If your Honor wishes, we can break down the
13 exact dates and kinds of services rendered.

14 THE COURT: Do that, please.

15 MR. STRASSBERG: Initially we communicated
16 with Mr. Wood, in charge of the New York office, in
17 reference to this matter on October 24th, 1974. We
18 received the summons and complaint, spoke with the
19 conference clerk at the United States District Court
20 with reference to this matter, went to the Equal
21 Opportunity Commission and the National Employment
22 Law Project of Columbia University, in order to do
23 various research because we had ascertained, as a
24 matter of fact, that under a grant, Columbia Univer-
25 sity had a special project going on on Title 7.

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2 We found that we were able to save substantial
3 amounts of time by obtaining the benefit of their
4 background information and research.

5 Thereafter, we conferred with our client.
6 As a matter of fact, I spoke with Mr. Alton on
7 November 5th.

8 There was legal research, preparation, service
9 and filing of the answer, notice of deposition and
10 notice to produce on November 5th and November 6th,
11 1974.

12 Preparation for and conducting of the examina-
13 tion before trial of the plaintiff on November 25,
14 1974, and various telephone conferences and corres-
15 pondence with my client from the period 11/26/74
16 through December 10, '74. That was a total of
17 15 hours, including all the legal-initial research
18 done at that time.

19 We incurred disbursements and expenses of
20 \$133 at that time, \$116.50 of which was for the
21 deposition taken of Mr. Halder on November 25th.
22 That disbursement was paid by me on December 12th,
23 1974, our Check No. 16943; the invoice is dated
24 December 10th. I offer that in evidence.

25 THE COURT: It may be marked.

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2 THE CLERK: So marked, as Quotron's Exhibit A.

3 (So marked)

4 THE CLERK: So marked, for the hearing.

5 THE WITNESS: Thereafter there were various
6 items of correspondence and preparation of an
7 affidavit and memorandum of law in opposition to
8 the plaintiff's motion to amend its complaint on
9 December 23, 1974. That was filed with this court.

10 There were various telephone conferences with
11 our client. There was court appearance in the United
12 States District Court, Eastern District of New York
13 before your Honor with reference to the amended
14 complaint on January 17, 1975, various telephone
15 conferences and correspondence on January 21, 23,
16 through February 7, 1975.

17 We received and reviewed the memorandum of
18 decision, order of the court, with reference to the
19 amended complaint and various correspondence in
20 the period through February 28, 1975, for which there
21 were an additional 10-1/2 hours of services rendered
22 during that period, again at a value of \$100 per hour.

23 Thereafter, and between February 28th and
24 April 30th, 1975, we had various correspondence with
25 Mr. Alton with reference to the interrogatories

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2 served upon us in the preparation of the answers
3 to the interrogatories and various items of corres-
4 pondence.

5 We received and reviewed the amended complaint,
6 prepared and served and filed an amended answer, and
7 received and reviewed a motion for further interroga-
8 tories and prepared, served and filed the affirmation
9 of memorandum of law in opposition to the same.

10 We again appeared in the United States District
11 Court on this matter on April 18th, 1975, and through
12 April 21, 1975 had rendered and billed our client
13 an additional \$910 in fees.

14 Thereafter there were motions for further
15 interrogatories by the plaintiff and preparation
16 of affirmation in opposition to that motion. I be-
17 lieve your Honor decided the motion on reargument
18 just yesterday in this matter.

19 Preparation of answer to an amended complaint
20 and various conferences, and through September 30th,
21 1975, an additional \$385 in services had been ren-
22 dered.

23 During the course of this past week we
24 communicated with the Court on Thursday when we
25 were initially apprised of this matter and contacted

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2 our client. We reviewed the file and prepared for
3 trial, including conferences ~~had~~ ^{YOUR} with the client,
4 and appeared before ~~his~~ Honor ~~this~~ morning, a total
5 of approximately 10 hours of time has been expended
6 in this past week, for which the client will be
7 billed the rate of \$100, or an additional \$1,000.

8 In all, the value of the total value of
9 services rendered will be \$4,643, of which \$1,000
10 has not yet been billed.

11 In addition to that, we have had disbursements
12 of \$133.

13 I would like to state to the Court that I am
14 an attorney at law, duly admitted to practice in
15 this state, the federal bar in various states. I have
16 been practicing for twenty-one years before the
17 courts of the State of New York.

18 My absolute minimum billing rate is \$100 an
19 hour, and I am the senior partner in my firm.

20 Without going into exact income, my income
21 exceeds -- my net income from the firm, my share from
22 the firm exceeds \$100,000.

23 I respectfully submit to the best of my
24 knowledge, personal income taxes paid by me last
25 year exceeded \$50,000, and on that basis I have set

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2 forth the valuation of the services rendered.

3 THE COURT: Thank you. You may step down.

4 (Witness excused)

5 THE COURT: As I read the section, the Court
6 is vested with discretion in awarding reasonable
7 attorney's fees in an action under Section 20002,
8 and so forth. We must be careful in selecting those
9 cases in which attorneys' fees are awarded. It
10 should not be used to discourage applicants or
11 plaintiffs who have some basis for the claim and
12 learn, after trial, that it didn't turn out that
13 way. I'm ready to award attorneys' fees in this
14 case because, from what I learned about the case
15 today, I think the plaintiff knew or should have
16 known there was no basis whatsoever for a claim
17 under this section. For whatever reasons he had
18 he proceeded to prosecute the claim. It almost
19 borders on malicious prosecution. I'm referring only
20 to the Quotron claim. I don't make any determina-
21 tion as to the others.

22 I don't think in light of this plaintiff's
23 financial condition that I should burden him with
24 what I find to be a reasonable attorneys' fee, which
25 comes to approximately \$5,000, but I do think that

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1 a plaintiff who brings a baseless action must under-
2 stand that he must, in part, pay for the expense
3 caused his adversary.

4 I'm going to award not a reasonable attorney's
5 fee but a nominal attorney's fee as costs. I award
6 the sum of \$500 as attorneys' fees. I decline to
7 award any disbursements. You may have taxable costs,
8 but I'm referring to the \$133 you spent.

9 MR. HALDER: ^{MAY} ~~might~~ I say something in this
10 regard.

11 THE COURT: Surely.

12 MR. HALDER: First of all, I deny the
13 defendant's allegation that I'm harassing them.
14 That's what they said.

15 What I've been trying to do in this country is
16 trying to survive. The job is my life. The denial
17 of ^A ~~the~~ job is tantamount to ^{DENIAL OF} my right to live. They
18 have denied my right to live, and what I'm trying
19 to do I'm trying to survive and it seems they won't
20 let me survive.

21 I'm trying to enforce a law upon them. I have
22 never tried to harass anybody.

23 THE COURT: I won't take anything further.
24 I find you're not trying to enforce a law. I find
25 that in this particular case in Quotron, you are
misusing the statute.

1 MR. HALDER: In what way, may I ask you.

2 THE COURT: I won't say anything further.

3 This case is over. That's all, gentlemen.

4 (Time noted: 11:25 a.m.)

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Case Received
FRIEDMAN & PARTNER
Date 8/4/76
Time 3:20